

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Case Action No. 3:21-cv-319-MOC-DCK

WES JOHNSON, and TAMEKIA
BOTTOMS, individually and on behalf of all
other similarly situated, The AAA Carolinas
Savings & Investment Plan and The Auto
Club Group Tax Deferred Savings Plan,

Plaintiffs,

v.

CAROLINA MOTOR CLUB, INC. d/b/a
AAA Carolinas and THE AUTO CLUB
GROUP, INC.,

Defendants.

**DEFENDANTS' MOTION FOR
PARTIAL DISMISSAL OF PLAINTIFFS'
AMENDED COMPLAINT**

NOW COME Defendants, Carolina Motor Club, Inc. d/b/a AAA Carolinas (“AAA Carolinas” and The Auto Club Group, Inc. (“AGC”) (collectively, “Defendants”), by and through their undersigned counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Local Rule 7.1, hereby move the Court for an Order dismissing Count 1 of Plaintiff’s Amended Complaint for breach of fiduciary duty in its entirety; Count 3 for alleged prohibited transactions in its entirety; and Count 4 for breach of fiduciary duties to the extent it alleges conduct occurring prior to July 6, 2015.

For reasons more fully explained in the *Memorandum of Law in Support of Defendant's Motion to Partially Dismiss Plaintiffs' Amended Complaint*, Counts 1 and 3 of the Amended Complaint are time barred and fail to state plausible claims to for relief, and Count 4 is partially time barred.

As such, Defendant respectfully requests that these claims be **DISMISSED with prejudice**.

Date: November 2, 2021

Respectfully submitted,

/s/ René E. Thorne

René E. Thorne*

Rene.Thorne@jacksonlewis.com

Charles F. Seemann III*

Charles.Seemann@jacksonlewis.com

Jackson Lewis P.C.

650 Poydras Street, Suite 1900

New Orleans, LA 70130

Telephone: (504) 208-1755

Facsimile: (504) 208-1759

H. Bernard Tisdale III

N.C. State Bar No. 23980

Bernard.Tisdale@jacksonlewis.com

Jackson Lewis P.C.

200 South College Street

Suite 1550, 15th Floor

Charlotte, NC 28202

Telephone: (980) 465 7237

Facsimile: (704) 333-7764

*Admitted Pro Hac Vice

COUNSEL FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Case Action No. 3:21-cv-319-MOC-DCK

WES JOHNSON, and TAMEKIA
BOTTOMS, individually and on behalf of all
other similarly situated, The AAA Carolinas
Savings & Investment Plan and The Auto
Club Group Tax Deferred Savings Plan,

Plaintiffs,

v.

CAROLINA MOTOR CLUB, INC. d/b/a
AAA Carolinas and THE AUTO CLUB
GROUP, INC.,

Defendants.

CERTIFICATE OF SERVICE

The undersigned certifies that on November 2, 2021, the foregoing *DEFENDANTS' MOTION FOR PARTIAL DISMISSAL OF PLAINTIFFS' AMENDED COMPLAINT* was electronically filed with the Clerk of the Court, using the Court's CM/ECF electronic service system, which will send notification of such filing as follows:

ANDREW L. FITZGERALD
N.C. State Bar No. 31522
andy@fitzgeraldlitigation.com
FITZGERALD LITIGATION
119 Brookstown Avenue, Suite 402
Winston-Salem, NC 27101

Attorney for Plaintiff

/s/ René E. Thorne

René E. Thorne*
Rene.Thorne@jacksonlewis.com
Jackson Lewis P.C.
650 Poydras Street, Suite 1900
New Orleans, LA 70130
Telephone: (504) 208-1755
Facsimile: (504) 208-1759
*Admitted Pro Hac Vice
COUNSEL FOR DEFENDANTS